MONTANA LEGISLATIVE HISTORY

Chapter 100 19 55

Bill H _____ S 254 Original bill & history ____C

H. Committee on Local Government		S. Committee on Local Government	
Hearing Date(s) Mar 02	✓ C	Hearing Date(s) Feb 07	✓ C
_____	____C	Feb 14	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Mar 02	✓ C	Feb 15	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

DIED IN PROCESS

SB 253 INTRODUCED BY HOLDEN, ET AL.

CREATE AN INSURANCE FRAUD PROTECTION ACT

1/26	INTRODUCED		
1/26	FIRST READING		
1/26	REFERRED TO BUSINESS & INDUSTRY		
1/27	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/02	FISCAL NOTE PRINTED		
2/09	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	2ND READING PASSED	36	12
2/16	3RD READING PASSED	40	10
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO BUSINESS & LABOR		
3/09	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	95	5
3/14	3RD READING CONCURRED	91	8
	RETURNED TO SENATE		
3/17	SIGNED BY PRESIDENT		
3/18	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 237		
	EFFECTIVE DATE: 07/01/95		

SB 254 INTRODUCED BY FORRESTER, ET AL.

CHANGE CRITERIA UPON WHICH A GOVERNING BODY OR THE DISTRICT COURT DECIDES TO WHICH PROPERTIES VACATED PLATS REVERT

1/26	INTRODUCED		
1/26	FIRST READING		
1/26	REFERRED TO LOCAL GOVERNMENT		
2/07	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	50	0
2/17	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO LOCAL GOVERNMENT		
3/02	HEARING		
3/03	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	98	0
3/06	3RD READING CONCURRED	100	0
	RETURNED TO SENATE		
3/07	SIGNED BY PRESIDENT		
3/07	SIGNED BY SPEAKER		
3/08	TRANSMITTED TO GOVERNOR		
3/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 100		
	EFFECTIVE DATE: 10/01/95		

SENATE BILL NO. 254

INTRODUCED BY Forrester Johnson Mills McLean Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE CRITERIA UPON WHICH A GOVERNING BODY DECIDES TO WHICH PROPERTIES VACATED PLATS REVERT; AND AMENDING SECTION 76-3-305, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-305, MCA, is amended to read:

"**76-3-305. Vacation of plats -- utility easements.** (1) Any plat prepared and recorded as ~~herein~~ provided in this section may be vacated either in whole or in part as provided by 7-5-2501, 7-5-2502, ~~subsections (1) and (2) of~~ 7-14-2616(1) and (2), 7-14-2617, ~~subsections (1) and (2) of~~ 7-14-4114(1) and (2), and 7-14-4115~~, and upon such~~. Upon vacation, the governing body shall determine to which properties the title to the streets and alleys of ~~such~~ the vacated portions ~~to the center thereof shall~~ must revert. The governing body shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to ~~such~~ the vacated portions.

(2) However, when any poleline, pipeline, or any other public or private facility is located in a vacated street or alley at the time of the reversion of the title ~~thereto~~ to the vacated street or alley, the owner of ~~said~~ the public or private utility facility ~~shall have~~ has an easement over the vacated land to continue the operation and maintenance of the public utility facility."

-END-

jurisdictional limits of Kalispell, they extend out 3 1/2 miles and since 1991 they issued 2,032 permits for building construction valued at almost 42 million dollars. He noted the average number of permits since 1991 was 508 permits. SB 227 countered state policy in 7-42 and 7-43 which **Mr. Gallagher** pointed out. He asked the committee to vote against SB 227 as it would be a vote against the sound growth of Montana's municipalities and would encourage unsafe and unsound conditions.

Jim Brown, Bureau Chief of the Building Codes Bureau of the Department of Commerce, presented his written testimony (**EXHIBIT 3**).

Alec Hanson, League of Cities and Towns, presented a letter from the City of Missoula (**EXHIBIT 4**). He said that the issue was safety and if SB 227 was to pass there would be a huge hole put in the building inspection program in the state of Montana. He urged the committee to reject SB 227.

Jim Wysocki, Bozeman City Manager, reiterated that safety was the main concern and growth was the time when parameters were needed. To be ready to absorb the impact of growth in Montana, SB 227 would not be the answer. He asked the committee that if agriculture out building were to be left out the primary homes should be left in the bill.

Questions From Committee Members and Responses: none

Closing by Sponsor:

SEN. WELDON stated the bill was not against building inspection and it was not his intent to not inspect buildings. He was questioning who was the appropriate entity to inspect buildings. He said those people not living within a city jurisdiction should not be inspected by the city. He said the 4 1/2 mile zone was a great source of revenue for the cities but he questioned if it was a good source of revenue for the cities. On the fiscal note, the fees paid to the state in lieu of the cities would cover the costs. He understood the additional burden that would be placed on the Department of Commerce and he was willing to except part of the responsibility for that and help the Department through the appropriation process. Ultimately, he felt SB 227 was a question of fairness.

HEARING ON SB 254

Opening Statement by Sponsor:

SEN. GARY FORRESTER, SD 8, Billings, presented SB 254 dealing with plats where any type of easement was vacated. The city of Billings felt there was a problem in that area.

Proponents' Testimony:

Mark Watson, City of Billings Administrator, said SB 254 was a specialized situation larger communities may have been facing within Montana. He used the board to draw a illustration of two plats where there was a roadway between two property owners and if that roadway were to be vacated, the roadway would be split in half and the property owners on each side would receive the additional land. He pointed out that if a roadway was redesigned and moved as not to benefit one of the property owners, SB 254 would allow that property owner to not be penalized.

Bruce Williams, City of Kalispell, stated that they had similar problems to that of Billings and they supported SB 254.

Jim Wysocki, Bozeman City Manager, stated that they support SB 254.

John Shontz, representing the Montana Association of Realtors, stated they supported SB 254.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. HARDING asked when a roadway moved what would happen? **Mr. Watson** said they would go back to original documents as to what the intent of the land was for and determine who would benefit.

CHAIRMAN BECK asked if it would be the same if a road went at an angle through the properties. **Mr. Watson** said it would depend on if the roadway was built or not. If it was on the master plan, they could determine if it would be part of an eventual roadway system or not. He said that in that instance, they would not want some other party to be a beneficiary if they were not originally part of the project.

SEN. ECK said they can't change roadways without the approval of the city or county. **Mr. Watson** said that was correct.

SEN. ECK asked if within the land they could change ownership but the county would have to approve how that would fit into the plan. **Mr. Watson** said it would be required on an official vacancy to be rescinded by the council.

Closing by Sponsor:

SEN. FORRESTER said he thought it was a good idea and hoped he would be able to carry the bill on the floor.

DATE 2-7-95

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: S.B. 222, SB 227- SB 254
SB 268

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Ray White	self	227	✓	
Douglas Hof	self	227	✓	
W James Kembel	City of Billings	227		✓
W James Kembel	City of Billings	254	✓	
MARK WATSON	City of Billings	227		✓
" "	" "	254	✓	
Larry Gallagher	City of Kalispell	227		✓
" "	" "	254	✓	
Jim Wysocki	City of BZN	227		✓
Jim Wysocki	City of BZN	254		
Gordon Morris	MACo	222	✓	
Larry Brown	Ag Pres. Assoc.	227	✓	
John Shontz	MT Assoc. REALTORS	227	X	
John Shontz	MT Assoc. REALTORS	254	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 2-7-95

NAME	PRESENT	ABSENT	EXCUSED
DOROTHY ECK	✓		
SHARON ESTRADA	✓		
DELWYN GAGE	✓		
DON HARGROVE	✓		
J. D. LYNCH	✓		
JEFF WELDON	✓		
ETHEL HARDING, VICE CHAIRMAN	✓		
TOM BECK, CHAIRMAN	✓		

SEN:1995
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CS-09

EXECUTIVE ACTION ON SB 254

Discussion:

Ms. Fox explained the amendments to the committee.

Motion/Vote: SEN. LYNCH MOVED TO ADOPT THE AMENDMENTS. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVED SB 254 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 230

Motion: SEN. LYNCH MOVED SB 230 BE TABLED.

Discussion:

SEN. LYNCH stated that SB 230 was an absolute slap in the face to the last election. To call the major cities in Montana resorts he felt was foolish. He pointed out that people go to Billings and Missoula for medical reasons also. He felt it was a misuse of the use of a resort tax as a sales tax.

SEN. HARGROVE stated that SB 230 was a local option tax which had also been rejected by the people.

SEN. ECK said she would consider favoring the bill but agreed that incorporated municipalities should come under the designation of the Department of Commerce. She thought there could legitimately be resort areas.

Vote: THE MOTION CARRIED WITH SEN. WELDON AND SEN. ECK VOTING "NO".

EXECUTIVE ACTION ON SB 258

Motion: SEN. ECK VOTED SB 258 DO PASS

Discussion:

SEN. WELDON asked if anything in SB 258 was done already in the committee with a bill heard earlier in the session?

Ms. Fox confirmed SEN. WELDON'S remark.

CHAIRMAN BECK questioned that if a county got a piece of tax deed property, they had to satisfy it for the amount of taxes owed against the property. He was concerned that a piece of property that had lost its value that they could get the full amount of taxes?

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 2-14-95

NAME	PRESENT	ABSENT	EXCUSED
DOROTHY ECK	✓		
SHARON ESTRADA	✓		
DELWYN GAGE	✓		
DON HARGROVE	✓		
J. D. LYNCH	✓		
JEFF WELDON	✓		
ETHEL HARDING, VICE CHAIRMAN	✓		
TOM BECK, CHAIRMAN	✓		

SEN:1995
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CS-09

SENATE STANDING COMMITTEE REPORT

February 15, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 254 (first reading copy -- white), respectfully report that SB 254 be amended as follows and as so amended do pass.

Signed: Sen Tom Beck
Senator Tom Beck, Chair

That such amendments read:

1. Title, line 4.
Following: "BODY"
Insert: "OR THE DISTRICT COURT"

2. Page 1, line 13.
Page 1, line 15
Following: "body"
Insert: "or the district court, as provided in 7-5-2502,"

-END-

Amd. Coord.
Sec. of Senate

391335SC.SRF

Mike Murphy, Montana Resources Association, said they support SB 299 for the previous stated reasons.

Larry Brown, Agriculture Preservation Association, and resident of Lewis and Clark County, District 28, said on behalf of the association and himself, they fully support what the bill does.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SHIELL ANDERSON asked **SEN. BECK** if the provisions would pass with the general election. **SEN. BECK** responded yes, this was amended to coincide with either a primary, general or school election so a special election would not have to be held.

REP. ELLEN HAGENER questioned if this was going to leave the county commissioners in trouble with money. **SEN. BECK** responded no, this will not hurt the counties financially and said the water quality districts are assessed upon a fee basis, per unit, times the number of dollars. He believed if people want to get out of the water quality district they should have this option.

Closing by Sponsor:

SEN. BECK asked for a do concur consideration.

HEARING ON SB 254

Opening Statement by Sponsor:

SEN. GARY FORRESTER, SD 8, Billings, said this bill was requested by the city manager in Billings which would change criteria upon which a governing body/district court reverts vacated plats.

Proponents' Testimony:

Jim Kembel, City of Billings, explained that under state law, if a street is vacated, regardless of the way the property was originally given, if the property of the street is split half and half between the adjacent property owners, what this bill proposes to do is to give the property back in the same fashion it was dedicated for the street in the original place. **Mr. Kembel** submitted and explained a drawing showing the current statute and the proposed statute. **EXHIBIT 3**

John Schontz, Montana Association of Realtors, supported this bill because it is an issue of fairness and he asked for a do concur consideration.

Charles Brooks, Yellowstone County Board of Commissioners, Billings, reiterated the fairness of this issue. If the property is vacated, the person that gives the property should receive it back rather than it be given to an adjacent piece of property who did not contribute to the road way or the alley way.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. JOHN BOHLINGER question **Mr. Schontz** about the present laws that establish streets or roadways in real estate developments and asked if under present law, does the property not come from property owner (A). **Mr. Schontz** explained if property owner (A) is a subdivider and creates parcel (B) and a street is dedicated to go between the two parcels, if the street is later abandoned, under current law, parcel (B) gets half. This bill would return all of it to property (A).

REP. NORM MILLS questioned **Mr. Kembel** on how it would be handled if a street was dedicated before any lots were sold, and if one of the streets was to be abandoned, if this bill addresses how that would be apportioned back to anyone because the original subdivider has sold all the lots and left. **Mr. Kembel** said he believed the half and half would be applicable.

Closing by Sponsor:

SEN. FORRESTER said this is a clean-up bill and would allow the property owner that has given the street to get it back and redesign the property and redevelop the property differently. He asked for do concur.

REP. MILLS agreed to carry the bill to the House floor.

EXECUTIVE ACTION ON SB 254

Motion/Vote: **REP. CHRIS AHNER MOVED THAT SB 254 BE CONCURRED IN. Voice vote taken. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 299

Motion: **REP. BOHLINGER MOVED THAT SB 299 BE CONCURRED IN.**

Discussion:

REP. ANDERSON asked **REP. MILLS** how they currently resolve the districts. **REP. MILLS** answered he has never seen one resolved yet. The water districts have been resolved but not the water quality districts that he knows of.

HOUSE OF REPRESENTATIVES

Local Government

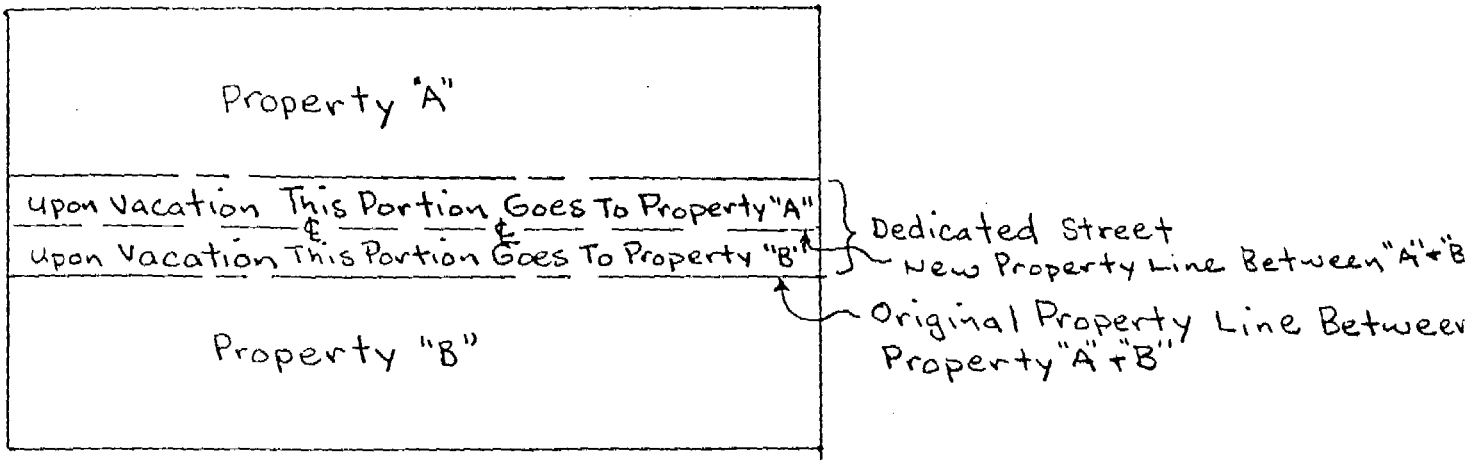
ROLL CALL DATE 3-2-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority			✓
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard			✓
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan			✓
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		

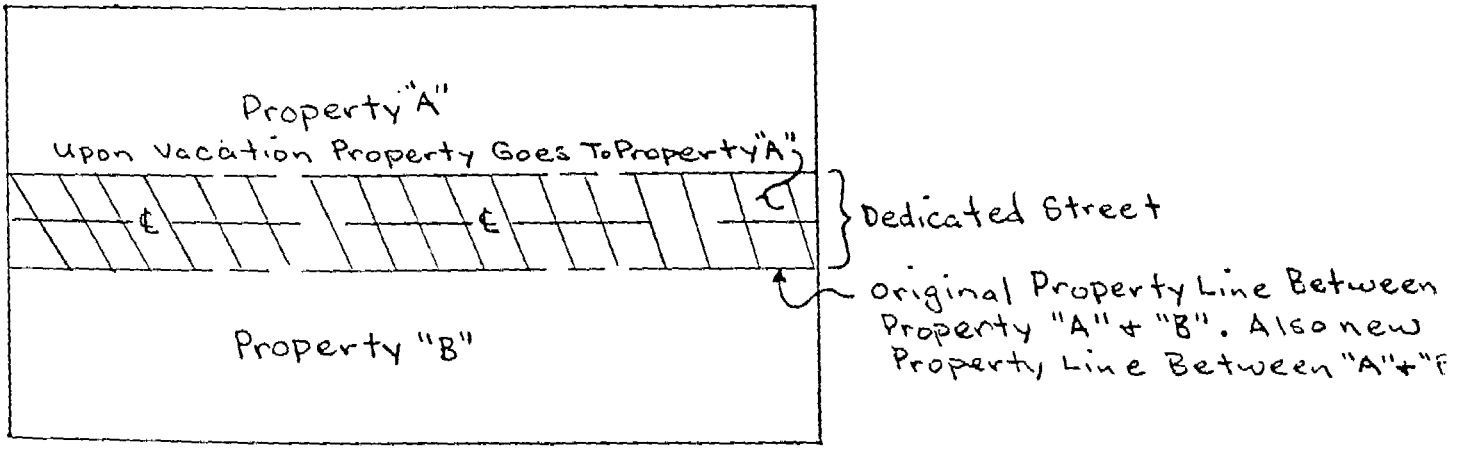
SB 254

EXHIBIT 2
DATE 3-2-95
HB SB 254
Jim Kembel

CURRENT STATUTE


Property "A"
Upon Vacation This Portion Goes To Property "A"
℄
Upon Vacation This Portion Goes To Property "B"
Dedicated Street
New Property Line Between "A" + "B"
Original Property Line Between
Property "A" + "B"
Property "B"

PROPOSED STATUTE



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. _____

DATE 3-2-95 SPONSOR(S) _____

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Norma Norman Johnson		142		
Earl Hagstrom		142		
W James Kembel	City of Billings	SB254		✓
Roger Thorvilson	MT DHES	142		✓
Charles Walk	MT Newspaper	SB121	–	
Gordon Morris	MMTCo	121		✓
JOHN ARRIGO	DHES	299		✓
MIKE MURPHY	MT. WATER RES. ASS'N	299		✓
Larry Brown	Ag Pros. Assoc	299		✓

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